

REMARKS

Reconsideration of all grounds of objection and rejection in the Office Action and allowance of the pending claims are respectfully requested in light of the above amendments and the following remarks. Claims 1-20 remain pending herein. Claims 1, 2, 6, 7, 11, 12 and 16 are now independent claims.

At the outset, Applicant notes with appreciation the indication in the Office Action that claims 2-5, 7-10, 12-15 and 17-20 recite allowable subject matter. Claims 2, 7 and 11 and 16 have been amended into independent format including all the limitations of their respective independent claims, thereby rendering all of the aforementioned claims in condition for allowance.

In response to the drawings objection, Applicant has amended FIG. 1 to include an optional processor 170, display 180 or storage 190 in communication with the monitoring unit 160. The specification has been updated to reflect this change as well. Applicant notes that the specification refers to these items being preferable (in an exemplary discussion of the invention) and not required. Reconsideration and withdrawal of this ground of objection are respectfully requested.

Claims 1, 6, 11 and 16 stand rejected under 35 U.S.C. §103(a) as allegedly being obvious over Glingener *et al.* (U.S. 6,816,299) ("Glingener") in view of Kollanyi (U.S. 4,757,193). Applicant respectfully traverses all of the above-mentioned grounds of rejection for the reasons discussed herein below.

Claims 1, 6, 11 and 16 have been amended to recite in part that the monitoring unit includes **an inverting amplifier for amplifying/inverting the electrical signal to a**

predetermined level, and synthesizing the amplified/inverted signal with a recovered data signal by said CDR unit, support for which is shown at least in FIG. 2, item 164 and disclosed in the specification at least at page 7, lines 13-15 and page 12, lines 3-8, and shown in FIGs. 4(a), 4(b) and 4(c).

The present invention provides at least the advantage that optical signal quality monitoring apparatus that permits measurement of the quality of the optical signal through comparison of the recovered data signal with converted signal without analyzing frame information of the optical signal one by one (specification at page 12, lines 3-15).

With regard to the combination of Glingener in view of Kollanyi, the combination neither discloses the structure or operation of the monitoring unit as recited in present claims 1, 6, 11 and 16, and in particular fails as a combination regarding the disclosure or suggestion of an inverting amplifier for amplifying/inverting the electrical signal to a predetermined level, and synthesizing the amplified/inverted signal with a recovered data signal by said CDR unit. Thus, for at least this reason, Applicant respectfully submits that none of the claims would have been obvious to a person of ordinary skill in the art at the time of invention in view of the combination of references, nor would the combination of elements, as recited in the present claims, have been within the ordinary level of skill in the art.

In addition, with regard to the combination of Kollanyi and Glingener, it is admitted in the Office Action that Glingener fails even to disclose a Clock Data Recovery Unit (CDR). While Kollanyi discloses a CDR (Fig. 2, post amp and clock recovery 120), the clock and data signals are extracted from an opto-electrically converted signal and then provided as separate lines to Electronic Signal Processing (ESP) Unit 200. Kollanyi

discloses at col. 3, lines 48-55 that in turn, the ESP 200 provides the data driver 180 with data which is reclocked. Thus, Kollanyi, in combination with Glingener, fails to disclose or suggest at least present claims 1, 6, 11 and 16.

Moreover, with regard to the combination of Glingener and Kollanyi, Glingener is using a filtered harmonic frequency to provide a control signal when the harmonic frequency reaches a certain amplitude or power (col. 2, lines 15-21). Thus, the combination of references fails to make any disclosure, provide any teaching, suggestion or motivation, or in view thereof, render any of the claims of the present invention obvious at the time of invention.

With regard to rejections under 35 U.S.C. §103(a), Applicant respectfully submits that the United States Court of Appeals for the Federal Circuit required a showing of **an un rebutted prima facie case of obviousness** (*In re Rouffet*, 149 F.3d 1350, 47 USPQ2d 1453 (Fed. Cir. 1998) (citing *In re Deuel*, 51 F.3d 1552, 1557, 34 USPQ2d 1210, 1214 (Fed. Cir. 1995))). According to United States Court of Customs and Patent Appeals, the predecessor to the Federal Circuit, the *prima facie* case can be established only if the prior art references, among others, **teach all features** in the claims (*In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1970); see also **MPEP 2143.03**), or if the claim or claims recite features **as combined in the claims** that would have been within the ordinary skill in the art (*KSR International Co. v. Teleflex Inc. et al.*, No. 04-1350, U.S. Supreme Court, decided April 30, 2007).

For all the foregoing reasons, it is respectfully submitted that claims 1, 6, 11 and 16 would not have been obvious to a person of ordinary skill in the art in view of the cited references. Nor are the elements as combined in these claims obvious to a person of

ordinary skill in the art. Applicant also notes the other claims (2-5, 7-10, 12-15, 17-20) in this application were already deemed to be allowable, and as such are patentable for reasons independent of the above discussion. Reconsideration and withdrawal of this ground of rejection is respectfully requested.

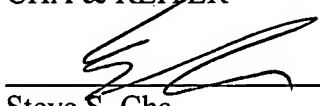
For all the foregoing reasons, Applicant respectfully submits that all grounds of objection and rejection in the Office Action are overcome. A Notice of Allowance is respectfully requested.

A check in the amount of \$800.00 for four additional independent claims (the allowed claims) has been submitted herewith.

In the event that any additional fee is required to continue the prosecution of this Application as requested, please charge such fee to Deposit Account No. 502-470. If the Examiner has any questions regarding this Application, it is respectfully requested that the Applicant's attorney of record be contacted at the below-noted telephone number.

Respectfully submitted,

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Date: 9/27/07

Enclosures:

Replacement FIG. 2

Transmittal & Fee for Additional Independent Claims

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